

**STATE OF CALIFORNIA
DEPARTMENT OF INSURANCE
45 Fremont Street, 21st Floor
San Francisco, California 94105**

RH01018405

June 29, 2004

FINAL STATEMENT OF REASONS

**CALIFORNIA AUTOMOBILE ASSIGNED RISK PLAN
PLAN OF OPERATIONS**

California Insurance Commissioner John Garamendi has adopted a Plan of Operations for the California Automobile Assigned Risk Plan (CAARP) as described below. The purpose of the proposal is to implement, interpret, and make specific the provisions of California Insurance Code (CIC) §§11620 *et seq.*

DESCRIPTION OF THE PUBLIC PROBLEM

CIC §11620 requires the Commissioner to approve or issue a reasonable plan for the equitable apportionment, among insurers admitted to transact liability insurance, of applicants for automobile bodily injury or property damage liability insurance who are in good faith entitled to but are unable to procure that insurance through ordinary methods. A number of revisions to the plan are necessary based on the passage of time, changes in the law, and experience.

STATEMENT OF SPECIFIC PURPOSE

The specific purpose for each provision is as set forth below.

Introduction

This portion of the Plan simply provides background and basic information for insurance producers submitting applications to CAARP. This section replaces sections 2400, 2401, and 2497. It implements, interprets, and makes specific CIC §11620.

Definitions

Section 1. Definitions

This section defines the terms used in the operation of the plan. This section replaces section 2403. It implements, interprets, and makes specific CIC §§11620, 11622.5, 11623, 11623.5, and 11624.08.

Administrative Part

Section 2. Plan Membership

This section sets forth the obligation of every admitted liability insurer to participate in the program. It replaces sections 2405 and 2498. It implements, interprets, and makes specific CIC §11620.

Section 3. Administration

This section describes the Advisory Committee membership and meetings and the right of the Commissioner to examine the plan. It replaces section 2420, 2421, 2421.1a, and 2496. It implements, interprets, and makes specific CIC §§11620 and 11623.

Section 4. Cost of Administration

This section sets forth the basis for apportioning the costs of administering the plan and requirements for paying assessments. This section replaces sections 2405, 2421.4, 2421.5, 2490, and 2491. It implements, interprets, and makes specific CIC § 11623.

Section 5. Duties of Advisory Committee

This section sets forth the duties of the Advisory Committee, replacing section 2421.2. It implements, interprets, and makes specific CIC §11623.

Section 6. Duties of the Manager

This section describes the duties of the manager. It replaces sections 2421.3, 2421.6, 2422, 2492, 2492.1, 2492.3, 2492.5, 2494, and 2494.5. It implements, interprets, and makes specific CIC §11623.

Section 7. Amendment of Plan

This section describes the process for amending the plan, and replaces section 2421.9. It implements, interprets, and makes specific CIC §§11620 and 11623.

Section 8. Determination and Fulfillment of Private Passenger Nonfleet Liability Quota

This section sets forth the basis for determining an insurer's assigned risk quota, replacing sections 2445, 2445.1, and 2448. It also describes the Limited Assignment Distribution Procedure authorized by CIC §11623.5, replacing section 2454. It implements, interprets, and makes specific CIC §§11620 and 11623.5.

Section 9. Determination and Fulfillment of Quotas Calendar Year [Insert Year] and Prior Years

The "Other Than Private Passenger" (OTPP) quota is proposed for elimination. All vehicles will be written either as Private Passenger or CAIP risks. To assist insurers during the transition period when the elimination of the OTPP quota distribution occurs, information pertaining to the determination of the Private Passenger Nonfleet (PPNF) and OTPP quotas for the calendar year and those prior are included in this section. This section replaces sections 2445, 2445.1, and 2448. It implements, interprets, and makes specific CIC § 11620.

Section 10. Reserved for Future Use**Section 11. Commercial Automobile Insurance Procedure Administration**

This section describes the administration of the commercial assigned risk program, including the servicing carrier application and appointment process, and procedures applicable to servicing carrier withdrawal or termination. It replaces section 2432. It implements, interprets, and makes specific CIC §11620.

Section 12. Commercial Automobile Insurance Procedure Participation Provisions

This section describes insurers' obligations to participate in the CAIP program. It replaces section 2432. It implements, interprets, and makes specific CIC §§11620 and 11624.

Section 13. Reserved for future Use

Section 14. General Provisions

This section sets forth various administrative provisions, including data reporting, data correction, data quality, assignments/participation to new or withdrawing insurers or insurers resuming writing, insurers in financial difficulty, insolvent insurers, insurer merger and consolidation, assumption of policy obligations, failure to subscribe to the plan, and settlement balances for insurers in rehabilitation. It replaces sections 2432, 2448, 2449.1, 2449.1a, 2449.2, 2493, 2493.2, 2493.4. It implements, interprets, and makes specific CIC §§11620, 11623, 11624, and 11625.

Section 15. Rate Determination

This section sets forth the basis for determining applicable rates and premiums, including data compliance requirements. It replaces sections 2404, 2421.10, and 2461. It implements, interprets, and makes specific CIC §11624.

Section 16. Right of Appeal

This section sets forth the procedure applicable to appeals of actions taken by any insurer, the Manager, or the committee. It replaces section 2495. It implements, interprets, and makes specific CIC §11624.

Section 17. Indemnification

This section concerns CAARP's right to defend and obligation to indemnify Committee members against loss for matters arising out of the performance of their Committee functions. It replaces section 2494.7. It implements, interprets, and makes specific CIC §11623.

Section 18. Reserved for Future Use**Producer Certification and Performance Standards Part****Section 19. Producer Certification**

This section sets forth the process for becoming a certified producer and the responsibilities of certified producers. This section replaces section 2431.1. It implements, interprets, and makes specific CIC §11622.5.

Section 20. Performance Standards

This section sets forth the performance standards for certified producers. It replaces section 2431.2. It implements, interprets, and makes specific CIC §11622.5.

Section 21. Reserved for Future Use**Personal Automobile Part****Section 22. Eligibility**

This section describes eligible applicants and vehicles. It specifies the means of establishing eligibility for a policy under the plan, and provides that insurers need not cover unlicensed persons or those who fail to pay premium. This section limits the plan to covering vehicles registered in California (with limited exceptions). It replaces sections 2404, 2430, and 2431. It implements, interprets, and makes specific CIC §§11620, 11624, 11624.08, 11624.09.

Section 23. Application Requirements

This section spells out certain information to be stated in and the facts about the applicant to be obtained on the insurance application and certificate of eligibility. It also specifies required notices to the applicant, including a fraud warning and a provision designed to protect against repeat applications by

persons who have failed to pay for prior CAARP coverage. It replaces sections 2441 and 2442. It implements, interprets, and makes specific CIC §§11624, 11624.08, and 11624.09.

Section 24. Reserved for Future Use

Section 25. Extent of Coverage

This section specifies the limits of liability, medical payments and uninsured motorists coverage to be provided on approved policy forms. It replaces sections 2406, 2407, and 2408. It implements, interprets, and makes specific CIC §11622.

Section 26. Premium Payment Options

This section describes the options applicable to payment of premiums for assigned risk policies, and premium owed for prior policies. It sets forth procedures applicable for dishonored checks. It replaces sections 2443, 2443.1, 2453. It implements, interprets, and makes specific CIC §§11620 and 11624.

Section 27. Reserved for Future Use

Section 28. Application for Assignment, Designation of Insurer, Evidence of Insurance, and Effective Date of Coverage

This section sets forth the Manager's requirements upon receipt of applications, and procedures applicable to effective dates of coverage. It also specifies return premium provisions under certain circumstances. It replaces sections 2444, 2444.5, 2444.6. It implements, interprets, and makes specific CIC §§11620, 11622.5, 11623, 11624, 11624.08, and 11624.09.

Section 29. Additional Vehicles or Coverages

This section sets forth the requirements applicable to policy changes during the term of the policy. It implements, interprets, and makes specific CIC §§ 11620 and 11624.

Section 30. Reserved for Future Use

Section 31. Three-Year Assignment Period

This section provides that the assignment period generally shall be 36 consecutive months. It replaces section 2482, 2483.3, and 2483.6. It implements, interprets and makes specific CIC §§11620 and 11624.

Section 32. Reserved for Future Use

Section 33. Cancellations

This section sets forth the procedures when a policy is cancelled mid-term. It replaces sections 2453, 2470, 2471, 2471.1, 2472. It implements, interprets, and makes specific CIC §§11620 and 11624.

Section 34. Commission to Producer of Record

This section sets forth the commission rates to be paid to producers for assigned risk business. It replaces section 2462. It implements, interprets, and makes specific CIC §§11620 and 11624.

Sections 35 – 36. Reserved for Future Use

Section 37. Performance Standards for Insurers Writing California Automobile Assigned Risk Plan Private Passenger Nonfleet Risks

This section sets forth the performance standards for insurers in their assigned risk (including low cost

auto) business. It replaces section 2431.3, 2450, 2450.5, 2482, 2482.1, 2483.5. It implements, interprets, and makes specific CIC §§11620, 11624, 11624.1, 11624.2, 11624.3, and 11624.4.

Sections 38 – 39. Reserved for Future Use.

Commercial Automobile Part

Section 40. Eligibility

This section describes eligible commercial applicants and vehicles. It replaces sections 2404, 2430, 2431, and 2432. It implements, interprets, and makes specific CIC §§11620 and 11624.

Section 41. Application Requirements

This section spells out certain information to be stated in and the facts about the applicant to be obtained on the insurance application. It also specifies required notices to the applicant, including a fraud warning and a provision designed to protect against repeat applications by persons who have failed to pay for prior CAARP coverage. It replaces sections 2441 and 2442. It implements, interprets, and makes specific CIC §11624.

Section 42. Reserved for Future Use

Section 43. Extent of Coverage

This section specifies the limits of liability, medical payments and uninsured motorists coverage to be provided, on an approved form, subject to any higher limits that may be required. It replaces sections 2406, 2407, and 2408. It implements, interprets, and makes specific CIC §11622.

Section 44. Premium Payment Options

This section describes the options applicable to payment of premiums for assigned risk policies, and premium owed for prior policies. It sets forth procedures applicable for dishonored checks. It replaces sections 2443, 2443.1, 2453. It implements, interprets, and makes specific CIC §§11620 and 11624.

Section 45. Reserved for Future Use

Section 46. Application for Assignment, Designation of Servicing Carrier, Evidence of Insurance, and Effective Date of Coverage

This section sets forth the Manager's requirements upon receipt of applications, and procedures applicable to effective dates of coverage. It also sets forth return premium requirements under certain circumstances. It replaces sections 2444, 2444.5, 2444.6. It implements, interprets, and makes specific CIC §§11620, 11622.5, 11623, and 11624.

Section 47. Additional Vehicles or Coverages

This section sets forth the requirements applicable to policy changes during the term of the policy. It implements, interprets, and makes specific CIC §§11620 and 11624.

Section 48. Reserved for Future Use

Section 49. Three-Year Assignment Period

This section provides that the assignment period generally shall be 36 consecutive months. It replaces section 2482, 2483.3, and 2483.6. It implements, interprets, and makes specific CIC §§11620 and 11624.

Section 50. Change of Ownership/Transfer of Loss Experience

This section provides that all exposures of commonly owned entities should be written on the same policy and combined for rating purposes, and describes the applicable procedure. It implements, interprets, and makes specific CIC §§11620 and 11624.

Section 51. Cancellations

This section sets forth the procedures when a policy is cancelled mid-term. It replaces sections 2453, 2470, 2471, 2471.1, 2472. It implements, interprets, and makes specific CIC §§11620 and 11624.

Section 52. Commission to Producer of Record

This section sets forth the commission rates to be paid to producers for assigned risk business. It replaces section 2462. It implements, interprets, and makes specific CIC §§11620 and 11624.

Section 53. Reserved for Future Use

Section 54. Performance Standards for Servicing Carriers Writing California Automobile Assigned Risk Plan Commercial Risks

This section sets forth the performance standards for insurers writing commercial assigned risk business. It replaces section 2431.3, 2432, 2450, 2482, 2482.1, 2483.5. It implements, interprets, and makes specific CIC §§11620, 11624, 11624.1, 11624.2, 11624.3, and 11624.4.

Section 55. Additional Premium Reporting Time Limit

This section is introduced to require the servicing carrier to obtain preapproval for any additional premium of \$5,000 or greater if the reporting date is more than three years following the policy termination date. It is intended to provide information regarding the additional premium reporting issue yet not be burdensome to the servicing carrier. It implements, interprets, and makes specific CIC §§ 11620, 11623, and 11624.

Sections 56 – 57. Reserved for Future Use

The following sections, currently included in Title 10, California Code of Regulations, sections 2400 *et seq.*, are not included in the new Plan of Operations because they are included in the CAARP Simplified Manual of Rules and Rates, referenced in section 2498.5, which took effect as of July 1, 1999: 2460, 2460.3, 2460.5, 2498.1, 2498.2, 2498.3.1, 2498.4, 2498.4.1, 2498.4.2.

The surety bond requirement in section 2421.6 is being deleted as unnecessary, as are sections 2447, 2480, 2481, 2482.3, 2482.5, and 2483.4.

IDENTIFICATION OF STUDIES

The Commissioner has relied upon the expertise of AIPSO's (CAARP's Manager) technical staff, and CAARP's Advisory Committee and its Technical Subcommittee, in proposing this plan, as required by CIC §11623. However, no studies or reports have been relied upon in proposing this plan.

SPECIFIC TECHNOLOGIES OR EQUIPMENT

This plan does not mandate the use of specific actions, technologies, or equipment.

LOCAL AGENCIES AND SCHOOL DISTRICTS

This plan does not impose a mandate on local agencies or school districts.

ALTERNATIVES

The subject matter of this proposal was discussed at length at numerous meetings of the CAARP Advisory Committee and its subcommittees. In attendance were representatives of insurers, producers, consumers, and other interested members of the public. Various alternatives were discussed in connection with many of the proposed sections, and a recommendation ultimately proposed to the Commissioner. The Commissioner has determined that no alternative would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective and less burdensome to affected private persons than the proposed plan.

The matters proposed herein do not have a significant adverse economic impact on business because the proposal, for the most part, simply updates, clarifies, and reorganizes existing regulations and sets forth procedures applicable to issuance of insurance policies through the California Automobile Assigned Risk Plan. Because the matters proposed herein will not have an adverse impact on businesses (including small businesses), the Commissioner has identified no alternative that would lessen any adverse impact on businesses (including small businesses).

COMPARABLE FEDERAL LAW

There are no comparable existing federal regulations or statutes.

SUMMARY OF AND RESPONSE TO PUBLIC COMMENTS

A summary of each comment received and the Department's response thereto is separately included in this rulemaking file.
